

CENTER FOR DISABILITY ACCESS  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

**Chris Langer,**

Plaintiff,

v.

**George F. Cannon;  
Leticia Cannon;  
Casa Reveles, Inc.,** a California  
Corporation; and Does 1-10,

Defendants.

Case No. **'14CV2106 JAH KSC**

**Complaint For Damages And  
Injunctive Relief For Violations  
Of: American's With Disabilities  
Act; Unruh Civil Rights Act;  
California Disabled Persons Act;  
Negligence**

Plaintiff Chris Langer complains of Defendants George F. Cannon;  
Leticia Cannon; Casa Reveles, Inc., a California Corporation; and Does 1-10  
("Defendants") and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. He is a paraplegic who cannot walk and who uses a wheelchair for mobility. He has a specially equipped van with a ramp that deploys out of the passenger side of his van and he has a Disabled Person Parking Placard issued to him by the State of California.

1       2. Defendant Casa Reveles, Inc. owned and operated the Casa Reveles  
2 restaurant located at or about 724 Main Street, Ramona, California  
3 (“Restaurant”) in November 2013 and currently does.

4       3. Defendants George F. Cannon and Leticia Cannon owned the property  
5 located at or about 724 Main Street, Ramona, California, in November 2013  
6 and currently do.

7       4. Plaintiff does not know the true names of Defendants, their business  
8 capacities, their ownership connection to the property and business, or their  
9 relative responsibilities in causing the access violations herein complained  
10 of, and alleges a joint venture and common enterprise by all such  
11 Defendants. Plaintiff is informed and believes that each of the Defendants  
12 herein, including Does 1 through 10, inclusive, is responsible in some  
13 capacity for the events herein alleged, or is a necessary party for obtaining  
14 appropriate relief. Plaintiff will seek leave to amend when the true names,  
15 capacities, connections, and responsibilities of the Defendants and Does 1  
16 through 10, inclusive, are ascertained.

17  
18       **JURISDICTION & VENUE:**

19       5. This Court has subject matter jurisdiction over this action pursuant to  
20 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans  
21 with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

22       6. Pursuant to pendant jurisdiction, an attendant and related cause of  
23 action, arising from the same nucleus of operative facts and arising out of  
24 the same transactions, is also brought under California’s Unruh Civil Rights  
25 Act, and the California Disabled Persons Act, which acts expressly  
26 incorporate the Americans with Disabilities Act.

27       7. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is  
28 founded on the fact that the real property which is the subject of this action

1 is located in this district and that Plaintiff's cause of action arose in this  
2 district.

3  
4 **FACTUAL ALLEGATIONS:**

5 8. The Plaintiff went to the Restaurant in November of 2013, to eat.

6 9. The Restaurant is a facility open to the public, a place of public  
7 accommodation, and a business establishment.

8 10. Parking spaces are one of the facilities, privileges and advantages  
9 offered by defendants to their customers at the Restaurant.

10 11. Unfortunately, the parking lot is not accessible to wheelchair users.

11 12. Although parking is provided to patrons, there is not a single  
12 functioning and compliant handicap parking space. Whether through  
13 neglect, apathy or otherwise, the defendants have permitted the handicap  
14 parking spaces and signage to either deteriorate to the point of being non-  
15 functioning or to be maintained incorrectly. Defendants have no policy in  
16 place to maintain their parking lot, such that accessible handicap parking  
17 spaces do not fade beyond recognition.

18 13. The plaintiff personally encountered this problem. This inaccessible  
19 condition denied the plaintiff full and equal access and caused him difficulty.

20 14. The defendants have failed to maintain in working and useable  
21 condition those features required to provide ready access to persons with  
22 disabilities.

23 15. Given the obvious and blatant violation, the plaintiff alleges, on  
24 information and belief, that there are other violations and barriers on the site  
25 that relate to his disability. Plaintiff will amend the complaint, to provide  
26 proper notice regarding the scope of this lawsuit, once he conducts a site  
27 inspection. However, please be on notice that the plaintiff seeks to have all  
28 barriers related to his disability remedied. See *Doran v. 7-11*, 506 F.3d 1191

1 (9th Cir. 2007) (holding that once a plaintiff encounters one barrier at a site,  
2 he can sue to have all barriers that relate to his disability removed regardless  
3 of whether he personally encountered them).

4 16. Additionally, on information and belief, the plaintiff alleges that the  
5 failure to remove these barriers was intentional because: (1) these particular  
6 barriers are intuitive and obvious; (2) the defendants exercised control and  
7 dominion over the conditions at this location and, therefore, the lack of  
8 accessible facilities was not an “accident” because had the defendants  
9 intended any other configuration, they had the means and ability to make the  
10 change.

11  
12 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**  
13 **WITH DISABILITIES ACT OF 1990** (On behalf of plaintiffs and against  
14 all defendants (42 U.S.C. section 12101, et seq.)

15 17. Plaintiff repleads and incorporates by reference, as if fully set forth  
16 again herein, the allegations contained in all prior paragraphs of this  
17 complaint.

18 18. Under the ADA, it is an act of discrimination to fail to ensure that the  
19 privileges, advantages, accommodations, facilities, goods and services of  
20 any place of public accommodation is offered on a full and equal basis by  
21 anyone who owns, leases, or operates a place of public accommodation. See  
22 42 U.S.C. § 12182(a). Discrimination is defined, inter alia, as follows:

- 23 a. A failure to make reasonable modifications in policies, practices,  
24 or procedures, when such modifications are necessary to afford  
25 goods, services, facilities, privileges, advantages, or  
26 accommodations to individuals with disabilities, unless the  
27 accommodation would work a fundamental alteration of those  
28 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).

- 1           b. A failure to remove architectural barriers where such removal is  
2           readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are  
3           defined by reference to the ADAAG, found at 28 C.F.R., Part  
4           36, Appendix “D.”
- 5           c. A failure to make alterations in such a manner that, to the  
6           maximum extent feasible, the altered portions of the facility are  
7           readily accessible to and usable by individuals with disabilities,  
8           including individuals who use wheelchairs or to ensure that, to  
9           the maximum extent feasible, the path of travel to the altered  
10          area and the bathrooms, telephones, and drinking fountains  
11          serving the altered area, are readily accessible to and usable by  
12          individuals with disabilities. 42 U.S.C. § 12183(a)(2).

13          19. To qualify as a reserved handicap parking space, the space must be  
14          properly marked and designated. Under the ADA, the method and color of  
15          marking are to be addressed by State or local laws or regulations. See 36  
16          C.F.R., Part 1191, § 502.3.3. Under the California Building Code, to  
17          properly and effectively reserve a parking space for persons with disabilities,  
18          each such space must be identified with a reflectorized sign permanently  
19          posted adjacent to and visible from each stall or space. CBC § 1129B.4. The  
20          sign must consist of the International Symbol of Accessibility in white on a  
21          blue background. *Id.* It cannot be smaller than 70 square inches and must be  
22          mounted so that there is a minimum of 80 inches from the bottom of the sign  
23          to the parking space. *Id.* Signs must be posted so that they cannot be  
24          obscured by a vehicle parking in the space. *Id.* An additional sign or  
25          additional language below the symbol of accessibility must state, “Minimum  
26          Fine \$250” to ensure that the space remains available for persons with  
27          disabilities. *Id.* Another sign must be posted in a conspicuous place at the  
28          entrance to the parking lot or immediately adjacent to each handicap parking

1 space, with lettering 1 inch in height, that clearly and conspicuously warn  
2 that unauthorized vehicles parking in the handicap parking spaces can be  
3 towed at the owner's expense. Id. Additionally, the surface of the handicap  
4 parking stall must have a profile view of a wheelchair occupant that is 36  
5 inches by 36 inches. Id. And the surface of the access aisle must have a blue  
6 border. CBC § 1129B.3. The words "NO PARKING" in letters at least a foot  
7 high must be painted on the access aisle. Id.

8 20. In our case, the defendants did not have any of the necessary  
9 markings, other than a faint blue outline where it looks as though an  
10 accessible parking space once existed. Defendants, in fact, have no policy  
11 whatsoever to make sure that the parking spaces reserved for disabled use do  
12 not fade or otherwise become unusable.

13 21. A public accommodation must maintain in operable working  
14 condition those features of its facilities and equipment that are required to be  
15 readily accessible to and usable by persons with disabilities. 28 C.F.R. §  
16 36.211(a).

17 22. Here, the failure to ensure that the accessible facilities were available  
18 and ready to be used by the plaintiff is a violation of the law.

19  
20 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH**  
21 **CIVIL RIGHTS ACT** (On behalf of plaintiffs and against all defendants)  
22 (Cal Civ § 51-53)

23 23. Plaintiff repleads and incorporates by reference, as if fully set forth  
24 again herein, the allegations contained in all prior paragraphs of this  
25 complaint.

26 24. Because the defendants violated the plaintiffs' rights under the ADA,  
27 they also violated the Unruh Civil Rights Act and are liable for damages.  
28 (Civ. Code § 51(f), 52(a).)

1 25. Because the violation of the Unruh Civil Rights Act resulted in  
2 difficulty, discomfort or embarrassment for the plaintiffs, the defendants are  
3 also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code §  
4 55.56(a)-(c).)

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9 **III. THIRD CAUSE OF ACTION: VIOLATION OF THE**  
10 **CALIFORNIA DISABLED PERSONS ACT** (On behalf of plaintiffs and  
11 against all defendants) (Cal Civ. § 54-54.8)

12 26. Plaintiff repleads and incorporates by reference, as if fully set forth  
13 again herein, the allegations contained in all prior paragraphs of this  
14 complaint.

15 27. Because the defendants violated the plaintiff's rights under the ADA,  
16 they also violated the Disabled Persons Act and are liable for damages. (Civ.  
17 Code § 54.1(d), 54.3(a).)

18 28. Because the violation of the Disabled Persons Act resulted in  
19 difficulty, discomfort or embarrassment for the plaintiffs, the defendants are  
20 also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code §  
21 55.56(a)-(c).)

22  
23 **IV. FOURTH CAUSE OF ACTION: NEGLIGENCE** (On behalf of  
24 plaintiff and against all defendants)

25 29. Plaintiff repleads and incorporates by reference, as if fully set forth  
26 again herein, the allegations contained in all prior paragraphs of this  
27 complaint.

28 30. The Defendants had a general duty and a duty arising under the

1 Americans with Disabilities Act and the Unruh Civil Rights Act and  
2 California Disabled Persons Act to provide safe, convenient, and accessible  
3 facilities to the plaintiffs. Their breach of this duty, as alleged in the  
4 preceding paragraphs, has caused injury and damage as alleged above.

5  
6  
7  
8  
9 **PRAYER:**

10 Wherefore, Plaintiff prays that this court award damages and provide  
11 relief as follows:

12 1. For injunctive relief, compelling defendants to comply with the  
13 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the  
14 Plaintiffs are not invoking section 55 of the California Civil Code and is not  
15 seeking injunctive relief under the Disabled Persons Act at all.

16 2. Damages under the Unruh Civil Rights Act and/or the California  
17 Disabled Persons Act which damages provide for actual damages and a  
18 statutory minimum of \$4,000. Note: a plaintiff cannot recover under both  
19 acts, simultaneously, and an election will be made prior to or at trial.

20 3. Reasonable attorney fees, litigation expenses and costs of suit,  
21 pursuant to 42 U.S.C. § 12205; Cal. Civ. Code §§ 52 and 54.3.

22  
23 Dated: January 27, 2014

CENTER FOR DISABILITY ACCESS

24  
25 By: 

26 \_\_\_\_\_  
Mark Potter, Esq.  
Attorneys for Plaintiff